

REMARKS/ARGUMENT

The Examiner in the Office Action of June 14, 2007, issued a restriction requirement under 35 U.S.C. §§ 121 and 372.

Claims 1 through 50 are pending in this application.

The Applicant is required to elect a single invention from one of the following three groups to which the claims must be restricted.:

Group I Claims 1 through 41 and 44 through 48, drawn to a candle.

Group II Claims 42 and 43, drawn to a device comprising a candle.

Group III Claims 49 and 50, drawn to a process of manufacturing a candle.

The Applicant provisionally elects, with traverse, the invention of Group I, claims 1 through 41 and 44 through 48, drawn to a candle, for prosecution.

The invention described in Group I involves a candle comprising at least two distinct phases characterized in that at least one of the phases comprises between 0.0001% w/w and 99 % w/w of an active volatile material selected from insecticide, an insect repellent, and insect attractant, a fragrance, a deodorizing and an anti-bacterial agent or any combination thereof. The current invention may comprise at least 5% w/w of an active volatile material, preferably 10% w/w of an active volatile material, more preferably at least 15% w/w and less than 99.99% w/w of an active volatile material. This special technical feature is not disclosed by the prior art.

U.S. Patent Number 6,079,975 to Conover discloses a multilayer candle in which each layer has a different fragrance so that as the candle burns the different fragrances merge from

one to the next to form mixtures thereof. The '975 patent claims a concentration of fragrance of said first and second fragrances in said first and second candle portions may each vary in ranges from 0.001% w/w to 10% w/w. An example disclosed by the '975 patent states the wild rose fragrance comprises 1 1/2% w/w fragrance in the center portion of the candle, 3% w/w hyacinth fragrance in the second layer of the candle, and 1/2% w/w honeysuckle fragrance in the third layer so the fragrance was 5% w/w of the candle.

U.S. Patent Number 4,568,270 to Marcus discloses a candle with an outer shell formed of paraffin wax with a melting point high enough to keep it from being tacky at room temperature, a fragranced inner core, and a wick. The fragrance oil in the center core constitutes 5% to 12% of the total weight of the core. Still, approximately 50% by weight of fragrance oil remains in the core and suffers the conventional disadvantage of being drawn up the wick and combusted during candle burning, leaving only a relatively small amount of fragrance to evaporate from the wax pool into the surrounding atmosphere, a problem the current invention seeks to overcome.

The Applicant has been required to elect a single species to which the claims will be restricted if no generic claim is finally held to be allowable. The Applicant elects specie A drawn to Figures 1 through 4. The claims readable on the elected species include claims 1 through 29 and 32 through 51.

The Applicant's elections are made with traverse. The Applicant believes that the requirement should be withdrawn. The claims of Groups I, II, and III are believed to have unity of invention and require a single search.

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If the Examiner requires any additional information regarding this election, the Applicant requests the Examiner to contact his attorney as identified below.

Respectfully submitted,

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Date

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